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17 February 2005

SCG43355.E

Serbia and Montenegro: Whether torture is used in prisons in cases where the suspect is arrested for murdering a police official or planning other attacks on government officials (2002-February 2005)
Research Directorate, Immigration and Refugee Board, Ottawa

No information indicating whether torture is used in prisons in cases where the suspect is arrested for murdering a police official or planning other attacks on government officials was found among the sources consulted by the Research Directorate. However, the following information might prove useful.

For an account of allegations of abuses and torture by police forces, including during the state of emergency that followed the assassination of Prime Minister Zoran Djindjic, please see SCG43320.E of 15 February 2005.

According to reports on the use of torture, police often brought detainees to jail and tortured them for alleged links to organized crime (IWPR 4 June 2003).

According to testimony collected by the Institute for War and Peace (IWPR) among "sources in the judiciary, the legal profession and international organizations," the Special Antiterrorist Unit (SAJ) practised torture on all detainees without discrimination (IWPR 4 June 2003).

A report by the Organisation mondiale contre la torture (OMCT) states that "numerous" cases of torture had occurred between 28 March 2002, when the new Criminal Procedure Code "entered into effect," and the time of the report (OMCT 25 June 2004, 21). Article 12 of this new Code "explicitly prohibits any kind of violence against a person who has been deprived of his liberty or whose liberty is restricted" (ibid., 13). The OMCT claims that, although it is their duty to do so, state prosecutors do not act on cases where perpetrators have to be brought to trial for the use of torture (ibid., 23).

According to the OMCT report, some measures of the new Code "are a good basis for the prevention of and protection from torture" (ibid., 21). These measures include the presence of an attorney during initial questioning; a limit of four hours for an investigatory interrogation; notification given to the suspect in a criminal case of his right to have a lawyer present; immediately take before a judge people detained without a court order (ibid., 21). As well, "only in exceptional cases can the police detain" and interrogate a person for up to 48 hours (ibid., 21).

The International Helsinki Federation for Human Rights (IHFHR) observed that efforts "to improve conditions of life in prisons" had been made, but that "there are still requirements to be met" to increase the respect for human rights so that the prisons can reach international standards (23 June 2004).

The Office of the High Commissioner for Human Rights (OHCHR) produced a 'human rights field operation' report on Serbia and Montenegro covering the period of February to May 2003 (2 June 2003). The report includes the findings from a joint visit to Belgrade with the Organization for Security and Co-operation in Europe (OSCE) mission and the OSCE Office of Democratic Institutions and Human Rights (ODIHR) (2 June 2003).

Among the findings were a lack of legal counsel for detainees, the fact that the conditions failed to meet international standards, and that "detainees kept incommunicado were unable" to communicate with their families (OHCHR 2 June 2003). According to the OHCHR, these conditions and the illegal length of detention periods represented "degrading punishment or treatment and [were] not compatible with the State's international human rights obligations" (ibid.).

The Helsinki Committee for Human Rights in Serbia (HCHRS) states that the 1978 detention facilities' "rules regulating the use of instruments of restraint, solitary confinement and isolation, disciplinary measures, duties of security officers and nutrition in detention facilities ... [were] still in force" (Apr. 2004).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

References

Helsinki Committee for Human Rights in Serbia (HCHRS). *Prisons in Serbia (April 2003 - April 2004)*. <<http://www.helsinki.org.yu/report.php?lang=en>> [Accessed 15 Feb. 2005]

The Institute for War and Peace Reporting (IWPR). 4 June 2003. Dragana Nikolic-Solomon and Gordana Igric. "Serbia: Detainees Allege Torture." (*Balkan Crisis Report* No. 434). <http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200306_434_5_eng.txt> [Accessed 7 Feb. 2005]

International Helsinki Federation for Human Rights (IHFHR). 23 June 2004. *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2004 (Events of 2003)*. <http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860> [Accessed 18 Jan. 2005]

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Organisation mondiale contre la torture (OMCT). 25 June 2004. "State Violence in Serbia and Montenegro: An Alternative Report to the United Nations Human Rights Committee." <http://www.omct.org/pdf/prev_torture/2004/stateviolence_serbia_montenegro_04_eng.pdf> [Accessed 15 Feb. 2005]

Additional Sources Consulted

Internet sources, including: Amnesty International (AI), *Le Courrier des Balkans*, Human Rights Watch (HRW), International Crisis Group (ICG), Radio Free Europe/Radio Liberty (RFE/RL), United Nations Interim Mission in Kosovo (UNMIK), WNC.